

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

SAMUEL L. WHITT,)
vs.)
Petitioner,)
J. OLIVER,) Case No. 2:13-cv-117-JMS-WGH
Respondent.)

Entry and Order Dismissing Action

I.

Samuel Whitt was convicted in the United States District Court for the Northern District of Indiana of a drug offense. His conviction was affirmed on direct appeal in *United States v. Whitt*, 211 F.3d 1022 (7th Cir. 2000), and his challenge pursuant to 28 U.S.C. § 2255(a) was rejected. *Whitt v. United States*, 2011 WL 1549228 (N.D.Ind. 2011).

Whitt's petition for a writ of habeas corpus challenging his conviction is denied because the very limited circumstances in which the "savings clause" of 28 U.S.C. § 2255(e) are not implicated by his petition. *Hill v. Werlinger*, 695 F.3d 644, 645 (7th Cir. 2012)(“A federal prisoner may use a § 2241 petition for a writ of habeas corpus to attack his conviction or sentence only if § 2255 is ‘inadequate or ineffective.’”)(quoting 28 U.S.C. § 2255(e)). Specifically, the claim he makes challenging the effectiveness of counsel with respect to plea negotiations does not support his factual innocence of the underlying drug offenses of which he was convicted. Moreover, he relies on decisional law which has not been held to apply retroactively to cases on collateral review.

Whitt has sought relief pursuant to 28 U.S.C. § 2241 under circumstances which do not permit or justify the use of that remedy. Thus, this § 2241 action must now be dismissed with prejudice. His renewed request for the appointment of counsel [dkt 10] is also denied.

II.

Judgment consistent with this Entry shall now issue.

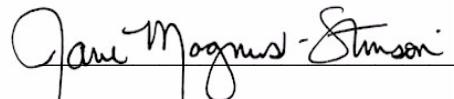
IT IS SO ORDERED.

Date: 10/03/2013

Distribution:

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All electronically registered counsel



Hon. Jane Magnus-Stinson,
Judge
United States District Court
Southern District of Indiana